

REMARKS

By the present amendment, Applicant has amended Claims 1 and 9, and added generic Claim 19. Claims 2-4, 10, 11, and 15 were cancelled by the previous amendment. Claims 1, 5-9, 12-14 and 16-19 remain pending in the present application. Claims 1, 9, and 19 are independent claims.

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview held December 5, 2006. The present response summarizes the understandings reached and substance of the interview. At the interview Claims 1 and 9 were specifically discussed. Photographs of the invention as depicted in Figs. 13 and 13A were shown. Proposed language was discussed to more particularly claim that the second ends are configured differently than the first ends so as not to engage the fence posts but, rather, fittingly fasten to each other. Arguments were advanced that the Nofziger reference did not possess this structure. Applicant's representative also indicated that a new independent claim would be presented in order to generically define the differences between the first and second ends of the panels. The Examiner indicated that he would consider the amended claims when presented for these distinguishing features.

Claims 6, 7, 13, and 14 were held withdrawn from consideration by the Examiner as being directed to a non-elected invention. However, it should be noted that under the provisions of 35 U.S.C. § 121 Applicant reserves the right to file a divisional application directed to the non-elected subject matter. If generic claim 19 is deemed allowable,

Applicant further reserves the right to introduce claims to the non-elected species in accordance with 37 CFR 1.141.

In the recent Office Action the Examiner rejected Claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by Nofziger (3,170,201). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nofziger ('201) in view of Infantino (4,241,554); claims 9 and 16-18 were rejected as being unpatentable over Nofziger ('201) in view of Cook (460,177); and claim 12 was rejected as being unpatentable over Nofziger ('201) in view of Cook ('177) and Infantino ('554).

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The Examiner rejected Claim 1 under 35 U.S.C. 102(b), as being anticipated by Nofziger ('201). This rejection is respectfully traversed. Although claim 9 was rejected under 35 U.S.C. 103(a), the arguments advanced herein towards claim 1 have equal applicability to claim 9 and newly added generic claim 19.

The Examiner states that the Nofziger reference discloses in Figs. 13 and 14 a plurality of first fence panels each having first and second ends. The Examiner further states that the second ends are "designed and configured to be interconnected." While this may have been accurate, amended claim 1 (and claims 9 and 19) now requires that the second ends have the following structure: "having an overlapping distal end portion configured differently than each said first end and providing a substantially planar flush fitting

engagement therebetween.” The Nofziger reference does not possess this structure nor could it be modified to incorporate such a structure. Nofziger’s Figs. 13 and 14 disclose that the panels L and their respective ends are similar at both ends and both encircle the post D.

In contradistinction to Nofziger’s structure, Applicant’s claimed device has first ends that engage each other and the fence post, and second ends that are configured so as not to engage the fence post. The reason for the claimed overlapping distal end portions is to enable the linear segments to be adapted to irregularities in the placement of the original fence posts. The adjacent fence panels can be altered in the distance that they overlap to compensate for these irregularities. See Applicant’s specification (page 16) and Figs. 13, 13A. New claim 19 defines the distinction between the first and second ends in generic language.

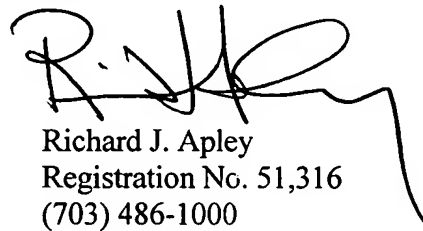
The claims in this application have been revised to more particularly define Applicant’s construction in view of the prior art of record. Reconsideration of the claims in light of the amendments is respectfully requested.

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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